

In the High Court of Punjab & Haryana, Chandigarh

Crl. Revision No.1047 of 2007

Date of decision: 3.7.2007

Sukhpal Singh

--petitioner

Vs.

State of Haryana

--Respondent

Coram: Hon'ble Mr. Justice S.S.Saron

Present: Mr.G.S.Sidhu, Advocate
for the petitioner

Sh. Narender Sura, AAG, Haryana

S.S.Saron, J.(Oral)

Petitioner Shukhpal Singh stood surety for the accused Ram Kumar in a case registered against the latter for the offence under Section Punjab 61 of the Excise Act (as applicable in Haryana). The petitioner furnished surety bond for Rs. 20,000/- undertaking to produce the accused Ram Kumar on each date of hearing. However, Ram Kumar absented himself from the proceedings in the case on 31.10.2002. Accordingly the bail bond of Ram Kumar was forfeited vide order dated 16.11.2001. Notice under Section 446 Cr. P.C. was issued to the petitioner for 3.12.2002. The petitioner did not appear in Court on the date for which notice had been issued and the learned trial Court imposed penalty of Rs. 20,000/- on him. However, on the said date i.e. 3.12.2002 for which the petitioner had been summoned, Ram Kumar appeared before the trial Court and he was taken in custody. Thereafter, Ram Kumar has been acquitted in the case registered against him on 7.10.2003. On account of penalty imposed

on the petitioner, the petitioner filed an appeal before the learned Sessions Judge, Sirsa.

The learned Additional Sessions Judge, Sirsa vide order dated 23.2.2007 dismissed the appeal and ordered that the petitioner be sent in civil imprisonment for the period mentioned under Section 446 Cr. P.C. or till he pays the amount of penalty whichever is earlier.

After hearing the learned counsel for the parties and perusing the record, it may be noticed that the proceedings were initiated against the petitioner as Ram Kumar had failed to appear in the Court on 31.10.2002. The petitioner was summoned to appear on 3.12.2002 as Ram Kumar for whom the petitioner had furnished surety had failed to appear. However, on the same date Ram Kumar had put in appearance before the trial Court and was taken in custody. Therefore, mere non-appearance of the petitioner on 3.10.2002 is not such a circumstance which would warrant imposition of penalty. Even otherwise, the petitioner has now been in custody for a period of about four months. In the circumstances, the penalty as imposed is liable to be set aside.

Accordingly, the Criminal Revision is accepted and the order dated 23.2.2007 passed by the learned Additional Sessions Judge, Sirsa and the order dated 3.12.2002 passed by the learned Sub Divisional Judicial Magistrate, Dabwali, shall stand set aside and the petitioner shall be released from the custody forthwith.

(S.S.Saron)
Judge

3.7.2007
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